IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR.

O R D E R

Pukh Raj. Versus State of Rajasthan & ors.

S.B. Criminal Misc. Petition No. 1241/2006 against the order dated 24-5-2006 passed by the Additional Chief Judicial Magistrate No.5, Jodhpur, in Criminal Original Case No. 273/2006.

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Date of Order: November 09 , 2006

PRESENT

HON'BLE MR. JUSTICE H.R. PANWAR

Ms. Kausar Parveen, for the petitioner.
Mr. Ashok Upadhyaya, Public Prosecutor for the State.

BY THE COURT:

By the instant criminal miscellaneous petition under Section 482 Cr.P.C., the petitioner, who is a complainant, has challenged the order dated 24-5-2006 passed by the Additional Chief Judicial Magistrate No.5, Jodhpur (for short, "the trial Court" hereinafter), whereby the trial Court framed charged against the non-petitioners No. 2 to 5 for the offences under Sections 341, 323/34 and 325/34 IPC. The complainant-petitioner, feeling aggrieved for not framing the charge under Section 307 IPC against the non-petitioners No.2 to 5, has filed the instant criminal miscellaneous petition.

I have heard learned counsel for the complainant-petitioner and the Public Prosecutor for the State. Carefully gone through the impugned order.

The evidence, on which complainant-petitioner, relies is that non-petitioner No.2 Arjun Singh inflicted injury by an iron-rod on the thigh of the complainant's father, which, on being examined by the Radiologist, the Radiologist found that there was a fracture of femur.

The object, by which the said injury was caused, is an iron-rod, which is a blunt-object. In my view, the trial Court was justified in framing in framing the charge for the offence under Section 325 IPC. There is no evidence that the accused/non-petitioners caused any injury with the intention or knowledge that if by their act, the death of the injured is caused, they will the guilty of murder. In this view of the matter, no offence under Section 307 IPC is made out.

The criminal miscellaneous petition is, therefore, dismissed.

(H.R. PANWAR), J.

mcs